620 Freedom Business Center, Suite 300 · King of Prussia, PA 19406 (610) 354-8250 · Fax (610) 354-8299

Direct Dial: 610-354-8498

Email: mjdempsey@mdwcg.com

August 23, 2012

BY CERTIFIED MAIL

Federal Deposit Insurance Corporation Attention: Suzanne Janolino 7777 Baymeadows Way West Jacksonville, FL 32256

RE: 10303-Progress Bank of Florida

Tampa, FL – In Receivership Claimant I.D.: NS1030300355 Our File No.: 21257-00718

Dear Ms. Janolino:

Our office represents Mango and August, Inc. in the above noted matter. I am in receipt of your letter dated August 14, 2012, disallowing the claim made by Bernard August, Inc., Individually and t/a Marisa Mango Real Estate, as not being filed prior to the Bar Date of January 26, 2011. Respectfully, I am asking that you reconsider your decision to disallow this claim for the following reasons:

- 1. My client, Bernard August, Individually and t/a Marisa Mango Real Estate, did not receive notice of the appointment of the Receiver in time to file this claim before the Bar Date of January 26, 2011. Specifically, my client, Bernard August, Individually and t/a Marisa Mango Real Estate, was not brought into the lawsuit until a Joinder Complaint was filed against it on December 21, 2011. Enclosed please find a copy of the Joinder Complaint in that regard, which was previously supplied to you.
- 2. The original lawsuit by Frances Joyce was filed on June 6, 2011, in the Philadelphia Court of Common Pleas, naming various individuals but not naming my client as a defendant. Thereafter, a Joinder Complaint was filed by an original defendant, Richard Devastey, against my client, Bernard August, Individually and t/a Marisa Mango Real Estate. That Joinder Complaint was not filed un December 21, 2011. Thereafter, my client was served with the Joinder Complaint and ultimately received notice from the Receiver/FDIC, in January 2012, informing them that they could file a claim against Progress Bank on or before May 7, 2012, which claim was timely filed by my client. Specifically, FDIC informed me by correspondence dated February 2012, that a Proof of Claim must be filed on or before May 7, 2012. The Proof of Claim was filed by me on behalf of my client on April 4, 2012.

August 23, 2012 Page 2

3. At no time prior to the Bar Date of January 26, 2011, was my client on notice of the appointment of the Receiver or of the Bar Date. Importantly, my client was not on notice of a claim against it until a Joinder Complaint was filed on December 21, 2011, against my client. The Joinder Complaint named my client as a defendant in that Joinder Complaint.

Respectfully, I request that you reconsider the claim by my client against Progress Bank since my client never received notice of the appointment of a Receiver nor did they receive notice of the Bar Date of January 26, 2011, before they were sued in the Joined Complaint on December 21, 2011. Hence, my client never had an opportunity or reason to file a claim against FDIC/Progress Bank of Florida, until after my client was named as a defendant in the Joinder Complaint filed on December 21, 2011.

If you need any additional information, please contact me. Respectfully, I request that you reconsider the decision to disallow my client's claim as being filed after the Bar Date.

Very truly yours,

Michael J. Dempsey

MJD;kmd

Encl.

cc: All Counsel

26/2033819.v1

MARSHALL DENNEHEY WARNER COLEMAN & GOGGIN

ATTORNEYS-AT-LAW WWW.MARSHALLDENNEHEY.COM

A PROFESSIONAL CORPORATION

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PENNSYLVANIA
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DELAWARE
Wilmington
OHIO
Cleveland
FLORIDA
Ft. Lauderdale
Jacksonville
Orlando
Tampa
NEW YORK
Long Island

New York City

September 11, 2012

FEDERAL EXPRESS and REGULAR MAIL

Suzanne Janolino Federal Deposit Insurance Corporation 7777 Baymeadows Way West Jacksonville, FL 32256

RE: 10303- Progress Bank of Florida

Tampa, FL – IN Receivership

Claimant I.D. No.: NS1030300355

Our File No.: 21257-00718

Dear Ms. Janolino:

This is a follow up to my correspondence to you dated August 23, 2012, wherein I requested that you reconsider your decision to disallow my client's claim on the basis that it was not filed prior to the bar date and for failure to prove that Claimant, my client, did not receive notice of the appointment of the Receiver in time to file such claim before the bar date.

Kindly accept this correspondence as a request on behalf of my client, Mango & August, Inc., for administrative agency review of the claim, including an administrative hearing pursuant to 12 U.S.C.S. §1821, including but not limited to §1821(d)(6) and §1821(d)(7). I am requesting agency review/administrative review including an administrative hearing of the decision by FDIC to disallow my client's claim in the above noted matter since it is clear that my client had no notice whatsoever of any claim against it until a Joinder Complaint, previously supplied to you, which was time stamped, was filed on December 21, 2011. My client did not receive a copy of that Joinder Complaint until it was served on January 8, 2012. Accordingly, my client never had notice of the January 26, 2011, bar date until long after that date had passed. Additionally, all of the documents provided to you, along with my client's Proof of Claim, indicated the date on which the Joinder Complaint was filed against my client, Mango & August, Inc.(December 21, 2011) and the date that the original Complaint by Francis Joyce was filed against Richard Devastey, et al (June 6, 2011) after which Mr. Devastey filed a Joinder Complaint against my client on December 21, 2011.

My client did not have notice of the appointment of a Receiver nor notice of the bar date of January 26, 2011, until FDIC provided notice to my client on February 7, 2012, informing it that it could file a claim

Suzanne Janolino September 11, 2012 Page 2

against Progress Bank on or before May 7, 2012. My client then filed its claim on April 4, 2012, which you have denied and for which I seek administrative review, agency review/administrative hearing pursuant to 12 U.S.C. §1821 et seq. Again, my client could not have had notice of the appointment of the Receiver and claim Bara Date of January 16, 2011, before that date because a claim (Joinder Complaint) against my client was not served on it until January 8, 2012.

I would greatly appreciate your contacting me pertaining to my client's request for administrative/agency review and administrative hearing of my client's disallowed claim in the above noted matter. Thank you.

Sincerely,

Michael J. Dempsey
Michael J. Dempsey

MJD;kmd

cc:

Lee D. Rosenfeld, Esq. Susan J. Wiener, Esq. Pauline J. Manos, Esq. Jeffrey S. Saltz, Esquire

26/2047323.v1

Civil Docket Report

Case Description

Case ID:

110600031

Case Caption: JOYCE VS DEVASTEY ETAL

Filing Date: Monday , June 06th, 2011

Court:

Location:

Jury:

Case Type:

JS - MAJOR JURY-STANDARD CH - City Hall J - JURY 20 - PERSONAL INJURY - OTHER

Status:

CLLSC - LISTED FOR SETTLEMENT CONF

Related Cases

No related cases were found.

Case Event Schedule

Event	Date/Time	Room	Location	Judge
DISCOVERY	07-FEB-2012	CITY	COURTROOM	
HEARING	09:00 AM	HALL	682	
PROJECTED SETTLEMENT CONF DATE	01-OCT-2012 09:00 AM	City Hall	Courtroom 443, City Hall	LACHMAN, MARLENE F
PROJECTED PRE-	03-DEC-2012	City	Courtroom 443,	LACHMAN, MARLENE F
TRIAL CONF. DATE	09:00 AM	Hall	City Hall	
PROJECTED TRIAL	07-JAN-2013	City	Courtroom 443,	LACHMAN, MARLENE F
DATE	09:00 AM	Hall	City Hall	

Case motions

No case motions were found.

Case Parties

Seq#	Assoc	Expn Date	Туре	ID	Name
1			ATTORNEY FOR PLAINTIFF	A76081	ROSENFELD, LEE D

] -	1	ı		I	
Address:	MESSA 8		Aliases:	none	
	123 SOU STREET	TH 22ND			
	PHILADE	LPHIA PA			
	19103 (215)568-	-3500			
	[(- x - x - x - x - x - x - x - x - x -			L	
2	1		PLAINTIFF	@6972289	JOYCE, FRANCES
Address:	AVENUE		Aliases:	none	
3	12		DEFENDANT	@6972290	DEVASTEY, RICHARD
Address:	AVENUE		Aliases:	none	
	19143	LPHIA PA			
	* 1				
4	11		DEFENDANT	@6972291	CITY OF PHILADELPHIA, C/O LAW DEPARTMENT
Address:	14TH FLO		Aliases:	none	
5			DEFENDANT	@6972292	PROGRESS BANK OF FLORIDA C/O FDIC AS RECEIVER PROGRESS BANK
Address:	BAYMEA WAY WE		Aliases:	none	
	; # : ;				
6			DEFENDANT	@6972293	CROOKS, JEFFREY
Address:	6708 DIC	KS	Aliases:	none	

	AVENUE PHILADE 19142	LPHIA PA			
	: - :				
7			DEFENDANT	@6972294	CROOKS, MARY
Address:	66 DICKS	AVENUE	Aliases:	none	
	PHILADE 19142	LPHIA PA			
	6. 1.				
8			DEFENDANT	@6972295	GLEASON JR, THOMAS
Address:	ROAD	IGTON OARBY PA	Aliases:	none	
	V. v. *				
9	3v.		DEFENDANT	@6972296	GLEASON, MARY
Address:	ROAD	IGTON DARBY PA	Aliases:	none	
10		31-DEC- 2011	TEAM LEADER	J280	MANFREDI, WILLIAM J
Address:		LPHIA PA	Aliases:	none	
11			ATTORNEY FOR DEFENDANT	A84960	MANOS, PAULINE J
Address:	STREET 14TH FLO	OOR LPHIA PA	Aliases:	none	
	*1				

•					
12			ATTORNEY FOR DEFENDANT	A65301	WIENER, SUSAN J
Address:	LAW OFF JAMES L. BARLOW 900 E. 8T AVENUE SUITE 30 KING OF PA 19406 (610)382-	H 1 PRUSSIA	Aliases:	none	
13	15		ADDITIONAL DEFENDANT	@7126853	BERNARD AUGUST, INDIV. AND T/A MARISA MANGO REAL ESTATE
Address:	AVENUE	ESTER LPHIA PA	Aliases:	none	
	4). 189				
14			TEAM LEADER	J408	LACHMAN, MARLENE F
Address:	JUSTICE 1301 FILE STREET	CENTER BERT LPHIA PA	Aliases:	none	
		<u> </u>			
15			ATTORNEY FOR ADDITIONAL DFT	A34454	DEMPSEY, MICHAEL J
Address:	BUSINES CENTER SUITE 30	S 0 PRUSSIA	Aliases:	none	

Docket Entries

Filing Date/Time	Docket Type	Filing Party	Disposition Amount	
06-JUN-2011 08:50 AM	ACTIV - ACTIVE CASE			06-JUN-2011 09:40 AM
Docket Entry:	E-Filing Number: 110600	6793		
06-JUN-2011 08:50 AM	CIVIJ - COMMENCEMENT CIVIL ACTION JURY	ROSENFELD, LEE D		06-JUN-2011 09:40 AM
Docket Entry:	none.			
06-JUN-2011 08:50 AM	CMPLT - COMPLAINT FILED NOTICE GIVEN	ROSENFELD, LEE D		06-JUN-2011 09:40 AM
Docket Entry:	COMPLAINT WITH NOT AFTER SERVICE IN AC			
06-JUN-2011 08:50 AM	SSCG7 - SHERIFF'S SURCHARGE 7 DEFTS	ROSENFELD, LEE D		06-JUN-2011 09:40 AM
Docket Entry:	none.			
			,	
06-JUN-2011 08:50 AM		ROSENFELD, LEE D		06-JUN-2011 09:40 AM
Docket Entry:	12 JURORS REQUESTE	ED.		
06-JUN-2011 08:50 AM	CLWCM - WAITING TO LIST CASE MGMT CONF	ROSENFELD, LEE D		06-JUN-2011 09:40 AM
Docket Entry:	none.			

16-JUN-2011 12:00 PM		MANOS, PAULINE J		16-JUN-2011 12:14 PM			
		ENTRY OF APPEARANCE OF PAULINE J MANOS FILED. (FILED ON BEHALF OF CITY OF PHILADELPHIA, C/O LAW DEPARTMENT)					
		F					
16-JUN-2011 12:00 PM	JURYT - JURY TRIAL PERFECTED			16-JUN-2011 12:14 PM			
Docket Entry:	12 JURORS REQUESTE	ED.					
16-JUN-2011 12:00 PM	CTYSF - CITY CHARGE SUBSEQUENT FILINGS	MANOS, PAULINE J		16-JUN-2011 12:14 PM			
Docket Entry:	none.						
16-JUN-2011 03:10 PM	AFDVT - AFFIDAVIT OF SERVICE FILED	ROSENFELD, LEE D		16-JUN-2011 03:12 PM			
	AFFIDAVIT OF SERVICI CROOKS, JEFFREY CR DEPARTMENT BY PER ON BEHALF OF FRANC	OOKS AND CITY (SONAL SERVICE (OF PHILADELP	HIA, C/O LAW			
23-JUN-2011 10:35 AM	CMREI - PRAECIPE TO REINSTATE CMPLT	ROSENFELD, LEE D		23-JUN-2011 10:35 AM			
	COMPLAINT WITH NOT AFTER SERVICE IN AC (FILED ON BEHALF OF FILED ON BEHALF OF I	CORDANCE WITH FRANCES JOYCE	RULE 1018.1 F ENTRY OF AF	REÌNSTATED.			
18-JUL-2011 05:17 PM	ANCOM - ANSWER TO COMPLAINT FILED	MANOS, PAULINE J		19-JUL-2011 09:18 AM			
Docket Entry:	ANSWER WITH NEW MATTER AND CROSSCLAIM TO PLAINTIFF'S COMPLAINT FILED. (FILED ON BEHALF OF CITY OF PHILADELPHIA, C/O LAW DEPARTMENT)						
	1						

18-JUL-2011 05:17 PM	JURYT - JURY TRIAL PERFECTED			19-JUL-2011 09:18 AM	
Docket Entry:	12 JURORS REQUESTE	ED.			
18-JUL-2011 05:17 PM	CTYSF - CITY CHARGE SUBSEQUENT FILINGS	MANOS, PAULINE J		19-JUL-2011 09:18 AM	
Docket Entry:	none.				
20-JUL-2011 08:40 AM	CMREI - PRAECIPE TO REINSTATE CMPLT	ROSENFELD, LEE D		20-JUL-2011 08:44 AM	
Docket Entry:	COMPLAINT WITH NOT AFTER SERVICE IN AC (FILED ON BEHALF OF	CORDANCE WITH	RULE 1018.1 F		
29-JUL-2011 07:02 AM	AFDVT - AFFIDAVIT OF SERVICE FILED	ROSENFELD, LEE D		29-JUL-2011 09:01 AM	
Docket Entry:	AFFIDAVIT OF SERVICE GLEASON AND MARY (07/21/2011 FILED. (FILE	GLEASON BY PER	SONAL SERVI	CE ON	
11-AUG-2011 01:28 PM	CMREI - PRAECIPE TO REINSTATE CMPLT	ROSENFELD, LEE D	·	11-AUG-2011 01:34 PM	
Docket Entry:	Docket Entry: COMPLAINT WITH NOTICE TO DEFEND WITHIN TWENTY (20) DAYS AFTER SERVICE IN ACCORDANCE WITH RULE 1018.1 REINSTATED. (FILED ON BEHALF OF FRANCES JOYCE)				
17-AUG-2011 02:04 PM	CLLCM - LISTED FOR CASE MGMT CONF			17-AUG-2011 02:04 PM	
Docket Entry:	none.				
19-AUG-2011	CLNGV - NOTICE			19-AUG-2011	

12:32 AM	GIVEN			12:32 AM
Docket Entry:	none.			
31-AUG-2011 08:00 AM	CMREI - PRAECIPE TO REINSTATE CMPLT	ROSENFELD, LEE D		31-AUG-2011 08:23 AM
Docket Entry:	COMPLAINT WITH NOT AFTER SERVICE IN AC (FILED ON BEHALF OF	CORDANCE WITH	RULE 1018.1 F	Y (20) DAYS REINSTATED.
01-SEP-2011 01:19 PM	CLCPG - CONTINUANCE BY PLF GRANTED			01-SEP-2011 01:19 PM
Docket Entry:	none.			
01-SEP-2011 01:19 PM	CLLCM - LISTED FOR CASE MGMT CONF			01-SEP-2011 01:19 PM
Docket	none.			
Entry:				
Entry:				
03-SEP-2011 12:33 AM	CLNGV - NOTICE GIVEN			03-SEP-2011 12:33 AM
03-SEP-2011	GIVEN			
03-SEP-2011 12:33 AM	GIVEN			
03-SEP-2011 12:33 AM	GIVEN	ROSENFELD, LEE D		
03-SEP-2011 12:33 AM Docket Entry: 22-SEP-2011	CMREI - PRAECIPE TO REINSTATE CMPLT	LEE D TO DEFEND I CORDANCE WITH	RULE 1018.1 F	12:33 AM 22-SEP-2011 03:11 PM Y (20) DAYS
03-SEP-2011 12:33 AM Docket Entry: 22-SEP-2011 02:56 PM Docket	CMREI - PRAECIPE TO REINSTATE CMPLT COMPLAINT WITH NOT AFTER SERVICE IN AC	LEE D TO DEFEND I CORDANCE WITH	RULE 1018.1 F	12:33 AM 22-SEP-2011 03:11 PM Y (20) DAYS
03-SEP-2011 12:33 AM Docket Entry: 22-SEP-2011 02:56 PM Docket	CMREI - PRAECIPE TO REINSTATE CMPLT COMPLAINT WITH NOT AFTER SERVICE IN AC	LEE D TO DEFEND I CORDANCE WITH	RULE 1018.1 F	12:33 AM 22-SEP-2011 03:11 PM Y (20) DAYS

Docket Entry:	COMPLAINT WITH NOT AFTER SERVICE IN AC (FILED ON BEHALF OF	ICE TO DEFEND V CORDANCE WITH FRANCES JOYCE	VITHIN TWENT RULE 1018.1 F)	Y (20) DAYS REINSTATED.
24-OCT-2011 11:21 AM	CLCCC - CASE MGMT CONFERENCE COMPLETED	PELLETREAU, CHARLES		24-OCT-2011 11:21 AM
Docket Entry:	none.			
24-OCT-2011 11:21 AM	CMOIS - CASE MANAGEMENT ORDER ISSUED			24-OCT-2011 11:21 AM
Docket Entry:	CASE MANAGEMENT COCT-2011, it is Ordered adopted for standard trachereby incorporated into shall be completed not las submit curriculum vitae at to testify at trial to all other Defendant and any additicurriculum vitae and expetestify at trial not later that filed not later than 01-OC scheduled at any time afficonference all counsel sh settlement memorandum of the nature of the case additional defendant; (b) A accumulated, including a claimed by categories an applicable insurance carrier-trial conference will be days prior to pre-trial concounsel and file a pre-trial concise summary of the redefendant or additional dicalled to testify at trial by witnesses not listed to be exhibits the party intends numbered and shall be exhibits the party intends numbered and shall be exhibited as appropriate, or counsel should expect a Plaintiff shall list an itemiz with all special damages include as appropriate, or	that: 1. The case means that: 1. The case means this Order. 2. All dister than 04-SEP-20 and expert reports of a parties not later to ional defendants should be considered and the case of the case o	anagement and oplicable to this escovery on the applicable to this secovery on the applicable to the second of all operations and all spendant shall identify and applicable limits and all spendant shall identifies and all witnesses. Counsel should stifying at trial; (in the counsel prior to the precluded damages sustant and amount.	time standards case and are above matter shall identify and esses intended 12. 4. submit atended to tions shall be emay be ement file a cise summary dant or mages cial damages tify all of liability. 7. A C-2012. Fifteen opposing owing: (a) A defense if who may be d expect c) A list of all shall be prehe conference. If at trial; (d) ined together This list shall

	lost earning capacity or medical expenses together with any other unliquidated damages claimed; and (e) Defendant shall state in position regarding damages and shall identify all applicable insurance carriers, together with applicable limits of liability; (f) Each counsel shall provide an estimate of the anticipated length of trial. 8. It is expected that the case will be ready for trial 07-JAN-2013, and counsel should anticipate trial to begin expeditiously thereafter. 9. All counsel are under a continuing obligation and are hereby ordered to serve a copy of this order upon all unrepresented parties and upon all counsel entering an appearance subsequent to the entry of this orderBY THE COURT: WILLIAM MANFREDI, J.				
24-OCT-2011	CLLSC - LISTED FOR			24-OCT-2011	
11:21 AM	SETTLEMENT CONF			11:21 AM	
Docket Entry:	none.				
24-OCT-2011 11:21 AM	CLLPT - LISTED FOR PRE-TRIAL CONF			24-OCT-2011 11:21 AM	
Docket Entry:	none.				
24-OCT-2011 11:21 AM	CLLTR - LISTED FOR TRIAL			24-OCT-2011 11:21 AM	
Docket Entry:	none.				
24-OCT-2011 11:21 AM	ZR236 - NOTICE GIVEN UNDER RULE 236			24-OCT-2011 02:16 PM	
	NOTICE GIVEN ON 24-0 ISSUED ENTERED ON 2		E MANAGEMEI	NT ORDER	
31-OCT-2011 02:37 PM	ENAPP - ENTRY OF APPEARANCE FILED	WIENER, SUSAN J		31-OCT-2011 02:56 PM	
	ENTRY OF APPEARANG BEHALF OF RICHARD I		IENER FILED.	(FILED ON	
16-NOV-2011	AFDVT - AFFIDAVIT	ROSENFELD,		16-NOV-2011	

10:55 AM	OF SERVICE FILED	LEE D		12:06 PM	
Docket Entry:	AFFIDAVIT OF SERVICI DEVASTEY BY CERTIF 10/29/2011 FILED. (FILE	IED MAIL, FIRST C	LASS REGULA	R MAIL ON	
14-DEC-2011 09:30 AM	ANCOM - ANSWER TO COMPLAINT FILED	WIENER, SUSAN J		14-DEC-2011 09:32 AM	
11	ANSWER WITH NEW M COMPLAINT FILED. (FII				
15-DEC-2011 11:36 AM	RPNMT - REPLY TO NEW MATTER	ROSENFELD, LEE D		15-DEC-2011 11:37 AM	
	REPLY TO NEW MATTE BEHALF OF FRANCES		EVASTEY FILE	D. (FILED ON	
21-DEC-2011 08:33 AM	CMPJC - JOINDER COMPLAINT FILED	WIENER, SUSAN J		21-DEC-2011 10:06 AM	
	JOINDER COMPLAINT A MARISA MANGO REAL TWENTY (20) DAYS AF 1018.1 FILED. (FILED O	ESTATE WITH NO TER SERVICE IN A	TICE TO DEFE ACCORDANCE	ND WITHIN WITH RULE	
08-JAN-2012 09:23 PM	AFDVT - AFFIDAVIT OF SERVICE FILED			10-JAN-2012 10:19 AM	
Docket Entry:	AFFIDAVIT OF SERVICE AUGUST, INDIV. AND TO PERSONAL SERVICE OF THE PERSONAL SE	/A MARISA MANG	O REAL ESTAT	N BERNARD E BY	
16-JAN-2012 09:56 AM	ENAPP - ENTRY OF APPEARANCE FILED	DEMPSEY, MICHAEL J		17-JAN-2012 11:23 AM	
Docket Entry:	THREAD FOR BERNARD AUGUST INDIVIAND UARARISA MANGO				
16-JAN-2012 09:56 AM	JURYT - JURY TRIAL PERFECTED			17-JAN-2012 11:23 AM	
Docket	12 JURORS REQUESTE	ED.			

Entry:				
	DSCIM - DISCOVERY HEARING REQST FILED	WIENER, SUSAN J		18-JAN-2012 02:36 PM
	DISCOVERY HEARING REQUEST FILED IN RE: MOTION TO COMPEL ANSWERS AND PRODUCTION OF DOCUMENTS. HEARING SCHEDULED FOR: FEBRUARY 07, 2012 AT 09:00 IN ROOM 682 CITY HALL. (FILED ON BEHALF OF RICHARD DEVASTEY)			
26-JAN-2012 10:10 AM	ANCOM - ANSWER TO COMPLAINT FILED	DEMPSEY, MICHAEL J		26-JAN-2012 10:16 AM
Docket Entry:	ANSWER WITH NEW MATTER TO RICHARD DEVASTEY JOINDER COMPLAINT FILED. (FILED ON BEHALF OF BERNARD AUGUST, INDIV. AND T/A MARISA MANGO REAL ESTATE)			